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APPLICATION N	10.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,177		03/17/2004	Norman R. Wainwright	CHR-004	4155
51414	7590	06/09/2006		EXAMINER	
		CTER LLP STRATOR	GITOMER, RALPH J		
	NGE PLAC		ART UNIT	PAPER NUMBER	
BOSTON	I, MA 02	109-2881	1655		
				DATE MAILED: 06/09/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
	10/803,177	WAINWRIGHT ET AL.			
Office Action Summary	Examiner	Art Unit			
	Ralph Gitomer	1655			
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim vill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	l. ely filed the mailing date of this communication. 0 (35 U.S.C. § 133).			
Status					
 Responsive to communication(s) filed on 17 Ma This action is FINAL. Since this application is in condition for allowant closed in accordance with the practice under E 	action is non-final. nce except for formal matters, pro				
Disposition of Claims					
4) ☐ Claim(s) 1-15,18,21,44,59,70 and 77 is/are per 4a) Of the above claim(s) is/are withdraw 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) 1-15,18,21,44,59,70 and 77 are subjected.	vn from consideration.	quirement.			
Application Papers					
9) The specification is objected to by the Examiner 10) The drawing(s) filed on is/are: a) access applicant may not request that any objection to the conference of the	epted or b) objected to by the Edrawing(s) be held in abeyance. See on is required if the drawing(s) is obj	ected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
Attachment(s)	a> □ I-4	(DTO 412)			
 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:				

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-14, drawn to a cartridge, classified in class 435, subclass 287.4.
- II. Claims 15 and 18, drawn to a method of detecting microbes, classified in class 435, subclass 31.
- III. Claim 44, drawn to a method of drying a hemocyte lysate onto a solid support, unclassifiable.
- IV. Claim 59, drawn to a method of preparing an amebocyte lysate, unclassifiable.
- V. Claim 77, drawn to a solid support, classified in class 435, subclass 395.

The inventions are independent or distinct, each from the other because:

Inventions I, V and II, III, IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method could be practiced with other apparatus than that of Groups I and V.

Inventions I and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as determining microbial contaminants. See MPEP § 806.05(d).

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Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions are distinct because a method of detecting microbes does not require a method of drying a lysate.

Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as detecting microbes. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination IV has separate utility such as preparing a lysate for many functions. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (571) 272-0916. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ralph Gitomer Primary Examiner Art Unit 1655

R. Cectories

PRIMARY EXAMINER
GROUP 1200